

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

MICHAEL MAKANEOLE, individually and
on behalf of all similarly situated individuals,

Plaintiff,

v.

**SOLARWORLD INDUSTRIES AMERICA,
INC.; SOLARWORLD INDUSTRIES
AMERICA, LP; SOLARWORLD
INDUSTRIES SERVICES, LLC;
SOLARWORLD POWER PROJECTS,
INC.; RANDSTAD PROFESSIONALS US,
LP; and KELLY SERVICES, INC.,**

Defendant.

No. 3:14-cv-1528-JR

OPINION AND ORDER

MOSMAN, J.,

On June 3, 2019, Magistrate Judge Jolie A. Russo issued her Findings and Recommendation (“F&R”) [246], recommending that Plaintiff Michael Makaneole’s Motion to File a Second Amended Complaint [230] be granted in part and denied in part. Defendants SolarWorld Industries America, Inc., SolarWorld Industries America, LP, SolarWorld Industries Services, LLC, and SolarWorld Power Projects, Inc. filed an objection [252], to which Mr. Makaneole responded [255].

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge,

but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Russo's recommendation and I ADOPT the F&R [246] as my own opinion. Mr. Makaneole's Motion to File a Second Amended Complaint [230] is GRANTED in part and DENIED in part. Specifically, Mr. Makaneole may amend his complaint with respect to his ORS Chapter 652 claims but may not amend with respect to his Chapter 653 claims. The amended complaint is due fourteen days from the date of this order.

IT IS SO ORDERED.

DATED this 23rd day of September, 2019.

Michael W. Mosman
MICHAEL W. MOSMAN
Chief United States District Judge